

DOCKET NO: 282778US8X PCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
SABINE TERRANOVA, ET AL. : EXAMINER: VIRESH R. PATEL
SERIAL NO: 10/528,722 :
FILED: JULY 19, 2006 : GROUP ART UNIT: 2169
FOR: COPY PROTECTED DIGITAL : CONFIRMATION NUMBER: 6936
DATA

PETITION TO RESET DATE
OF NON-FINAL OFFICE ACTION AND FOR REFUND OF FEES

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

Applicants, through counsel of record, respectfully request that the period for response to the Non-Final Office Action dated October 18, 2007 be re-set for the above-identified application due to the fact that Applicant's Representative's "E-Office Action" notice for the Non-Final Office Action was never sent because of a crash of the PTO's servers. The facts concerning this matter are as follows:

Applicant's Representative is a participant in the Office's Beta "e-Office Action Program", wherein Applicant's Representative receives a once daily e-mail notification of all applications in which outgoing PTO correspondence has been issued in lieu of paper copies of the notices themselves. The Image File Wrapper for each indicated application is then checked and all outgoing notifications/actions are downloaded, which is registered by the PTO as "Electronic Review" in the Transaction History of each application.

During a recent Status Check, Applicant's Representative checked Private PAIR, where the Office Action dated October 18, 2007 was discovered. After checking Applicant's case management docketing system, as well as the file wrapper and determining that the action had not been received and docketed, Applicant's Representative spoke with Tony Uranga, Program Analyst with SIRA (571-272-3416), who confirmed that an "E-Office Action" e-mail for the Non-Final Office Action in the instant application was never sent because of server failures at the PTO, even though the Transaction History for the case indicates the e-mail notification occurred on October 20, 2007. The attached copy of the "E-Office Action" e-mail received by Applicant's Representative on October 20, 2007 clearly does not contain the serial number for the instant application.

In addition, the Office (Tony Uranga, Program Analyst with SIRA) indicated this Non-Final Office Action would be reset at the Office's end without any action by Applicant's Representative. On the evening of April 17th, Applicant's Representative were informed that the Office had determined that a petition would have to be filed, hence the filing of this petition is occurring on April 18th, the expiration date of the period for response to the Non-Final Office Action. Because Applicant's Representative is further forced to file a Continuation Application with three months extensions of time in order to maintain pendency of this application, it is also requested that all associated PTO fees be refunded.

Applicant's Representative further states that they were not aware of the Office Action prior to the recently conducted Status Check, nor was a paper copy of the same ever received via regular mail or any other means.

In light of the foregoing, it is requested that the Office Action of October 18, 2007, be re-dated and the period for response be reset. The undersigned petitioner declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made

with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



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